

## REMARKS/ARGUMENTS

### 35 U.S.C. §102

On page 2 of the Office Action, paragraphs 2 and 3, claims 1, 2, 4, and 5 were rejected under 35 U.S.C. §102 (b) as being anticipated by Sugimoto (JP 2001-310443). The rejection is considered moot with respect to claims 1, 2, 4 and 5, which are now canceled.

### 35 U.S.C. §103(a)

On page 3 of the Office Action, at paragraphs 5 and 6, claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sugimoto in view of Simon (US 4,925,684). The rejection is considered moot with respect to claim 3, which is now canceled.

On page 5 of the Office Action, at paragraph 10, claims 1 to 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Simon (US 4,925,684) in view of Fisher et al. (US 4,911,938). The rejection is considered moot with respect to claims 1 to 4, which are now canceled.

On page 7 of the Office Action, at paragraph 15, claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Simon (US 4,925,684) in view of Fisher et al. (US 4,911,938), and further in view of Sugimoto (JP 2001-310443). The rejection is considered moot with respect to claim 5, which is now canceled.

On page 7 of the Office Action, at paragraph 18, claims 6 to 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Simon (US 4,925,684) in view of Fisher et al. (US 4,911,938).

Applicants respectfully traverse the rejection of the claims to the extent this rejection is applied to the claims as now presented.

Claim 6, as amended, claims a microwaveable vacuum skin package. Neither Simon nor Fisher et al. disclose a microwaveable vacuum skin package.

The Office Action at page 8 states that Simon is silent in teaching the top web substantially conforms to the shape of the food, and that Simon is silent in teaching the bottom web is 60% to 90% EVA, and 10% to 40% polypropylene. Applicants agree.

Fisher et al., like Simon, do not teach a vacuum skin package. Figures 6 and 7, and the corresponding text in column 7, make it clear that the packaging material of Fisher et al. is wrapped around a food product, as shown in Figure 6. Upon heating, the food product expands, filling the interior of the package to result in the article of Figure 7. The result is not a vacuum skin package. It does not appear that the embodiments of Figures 5 and 6 are

even vacuum packages, since the packaging material appears to be simply wrapped around the contained product, with sealing of the edges.

Neither Simon nor Fisher et al. teach:

- a top web comprising a sealant layer comprising an ethylene/alpha olefin copolymer, and
- a bottom web comprising a sealant layer comprising a blend of
  - i) between 60% and 90%, by weight of the sealant layer, of ethylene/vinyl acetate copolymer, and
  - ii) between 10% and 40%, by weight of the sealant layer, of polypropylene.

Simon teaches a top web sealant layer of polyethylene, ethylene copolymer such as EVA, polypropylene, or PVDC (column 4, line 63 to column 5, line 13). Simon does not appear to teach a bottom web sealant per se, but a tray 11 of polyethylene or polypropylene, which can include therein EVOH, nylon, or PVDC (column 4, lines 12 to 18).

Fisher teaches a top web sealant layer of ethylene copolymers such as EVA, PVDC, or polyesters (column 3, line 50 to column 4, line 14). Fisher's bottom web is actually the same as the top web, i.e. the film is folded on itself and sealed. Thus, the bottom portion of the package is the same composition as the top portion of the package.

Thus, neither reference, nor the two references in combination, teach the top web and bottom web recited in the claims now presented.

On page 9 of the Office Action, at paragraph 21, the particular sealant composition recited in the claims is viewed as an obvious matter of design choice, but no objective evidence of this obviousness has been presented, and no prior art has been presented that teaches the specific top and bottom webs now claimed.

On page 10 of the Office Action, at paragraph 22, claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Simon (US 4,925,684) in view of Fisher et al. (US 4,911,938), as applied to claims 6 to 9, and further in view of Sugimoto (JP 2001-310443). On page 10 of the Office Action, at paragraph 25, claims 6 to 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sugimoto (JP 2001-310443) in view of Simon (US 4,925,684).

For both of these rejections, Applicants rely on the above comments; Sugimoto, like Simon and Fisher et al., does not teach a vacuum skin package.

On page 12 of the Office Action, at paragraph 30, claims 11, 12, 14, 15, 16, 17, 19, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sugimoto (JP 2001-310443) in view of Campbell (EP 0334670).

Claims 11 to 15 have been canceled, and applicants respectfully submit that this rejection is moot with respect to these canceled claims.

With respect to claims 16, 17, 19, and 20, claim 16 (and claims 17, 19, and 20 by direct or indirect dependency) have been amended to recite a top web comprising a sealant layer comprising an ethylene/alpha olefin copolymer; and a bottom web comprising a sealant layer comprising a blend of between 60% and 90%, by weight of the sealant layer, of ethylene/vinyl acetate copolymer, and between 10% and 40%, by weight of the sealant layer, of polypropylene.

The Office Action recognizes that Sugimoto is silent in teaching the bottom web sealant is 60-90% EVA and 10-40% PP (page 11 of the Office Action, at the end of paragraph 26). Applicants therefore respectfully submit that claim 16 as now amended, and the claims dependent thereon, patentably distinguish over Sugimoto in view of Campbell.

On page 13 of the Office Action, at paragraph 33, claims 13 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sugimoto (JP 2001-310443) in view of Campbell (EP 0334670) , as applied to claims 11, 12, 14, 15, 16, 17, 19, and 20, and further in view of Simon (US 4,925,684).

For this rejection, Applicants rely on the above comments with respect to these references, in particular with regard to the sealant compositions of the top and bottom web.

The applicants respectfully ask the Examiner to consider the above discussion, and to allow the claims as now presented. The Commissioner is authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. 07-1765.

Respectfully submitted,



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